UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.15/1996/16/Add.3
10 April 1996

ORIGINAL: ENGLISH

COMMISSION ON CRIME PREVENTION
AND CRIMINAL JUSTICE
Fifth session
Vienna, 21-31 May 1996
Item 7 of the provisional agenda*

UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary-General

Addendum

USE AND APPLICATION OF THE DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER

Summary

The present report has been prepared in response to Economic and Social Council resolution 1993/34, section III. It contains information included by States in their replies to a survey on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex). The results of the survey, which was conducted on the basis of recommendations made by the Commission on Crime Prevention and Criminal Justice, should provide a yardstick with which to assess the progress and needs of each State and thus direct the course of future action by the Commission.

*E/CN.15/1996/1.

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INTRODUCTION

1. The Economic and Social Council, in its resolution 1993/34, section III, requested the Secretary-General to commence a process of information-gathering to be undertaken by means of surveys, initially paying attention to, *inter alia*, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex), the results of which should be considered by the Commission on Crime Prevention and Criminal Justice.

2. In its resolution 1994/18, the Council reaffirmed the important contribution that the use and application of United Nations standards and norms in crime prevention and criminal justice made to criminal justice systems and endorsed, *inter alia*, the questionnaire on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, submitted to the Commission at its third session.

3. The present report summarizes the replies to the questionnaire that were received from States. It follows the format used in the questionnaire, which was based on the structure of the Declaration. The questionnaire included the following parts that appear as headings in the Declaration: access to justice and fair treatment (paragraphs 4, 5 and 6 (a) (b) (c) and (d) of the Declaration); restitution (paragraphs 8-11); compensation (paragraphs 12-13); assistance to victims (paragraphs 14-16); and victims of abuse of power (paragraph 19). The questionnaire also included a part devoted to technical assistance.

4. Replies were received from 44 States: Argentina, Australia, Barbados, Belgium, Canada, Chile, China, Colombia, Cuba, Cyprus, Denmark, Finland, France, Germany, Ghana, Greece, Haiti, Holy See, Japan, Jordan, Lebanon, Luxembourg, Mauritius, Mexico, Morocco, Myanmar, Netherlands, New Zealand, Oman, Peru, Philippines, Qatar, Republic of Korea, Romania, Russian Federation, San Marino, Singapore, South Africa, Spain, Sweden, Switzerland,* Tonga, Ukraine and Vanuatu.

5. The replies received are from States in all regions. The interest in the survey manifested by the respondents is a valuable indicator of the growing awareness regarding the victims' issues all around the world.

6. In interpreting the results, it should be noted that among the States that did not reply were several known to have extensive legislation and programmes giving effect to the provisions of the Declaration. Many States might not have had data on conducted research and surveys to enable them to provide relevant information on the implementation of the Declaration. For example, Switzerland indicated that, since new legislation had been recently enacted, only a few reliable statistics were available. Some developing countries reported that they were facing a lack of financial and human resources to collect reliable statistics, develop surveys and promote research in that field.

7. The attention of the Commission is drawn to the results of the Expert Group Meeting on Victims of Crime and Abuse of Power in the International Setting, held at Vienna from 18 to 22 December 1995 (E/CN.15/1996/16/Add.5). At the Meeting, 25 experts from all regions discussed ways to promote the use and application of the Declaration. The participants believed that wide-ranging measures, including the adoption of legislation, as necessary, needed to be taken at the national and international levels to improve access to justice and fair treatment, reparation, including restitution, compensation and satisfaction and physiological, medical and social assistance, to make a reality of the promise held out by the Declaration. The Meeting recommended to the Commission an Integrated Plan of Action on Victims of Crime and Abuse of Power, a Model Project on the Establishment of Victim Services in the Context of Sustainable Development, a Promising Practices Resource data bank, a Scheme for International Crisis Response Teams for Emergency Assistance, and Principles Guaranteeing the Rights and Interests of Victims in the Proceedings of the Proposed International Court. The Expert Group also prepared an outline of a draft manual on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and recommended that further work should be undertaken to finalize the draft manual.

8. The attention of the Commission on Crime Prevention and Criminal Justice is also drawn to Commission of Human Rights resolution 1995/34. In that resolution the Commission on Human Rights noted with interest the positive experience of countries that had established reparation policies for victims of grave violations of human rights. It considered that the question of restitution, compensation and rehabilitation of such

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*Submitted information on its legislation without using the questionnaire.

victims should be addressed in a more systematic and thorough way at the national and international levels. It reiterated its appreciation of the study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, prepared by the Special Rapporteur of the Subcommission on Prevention of Discrimination and Protection of Minorities, Theo van Boven (E/CN.4/Sub.2/1993/8). It called upon the international community to give increased attention to the right to restitution, compensation and rehabilitation of victims of grave violations of human rights and fundamental freedoms.

I. ACCESS TO JUSTICE AND FAIR TREATMENT

9. In paragraph 4 of the Declaration, it is stated that victims should be treated with compassion and respect for their dignity and that they are entitled to access to the mechanisms of justice and to prompt redress for the harm that they have suffered.

A. Redress

10. On the question related to the possibility for the victim to obtain redress through formal or informal procedures, by judicial and administrative mechanisms, all responding States indicated that victims of crimes were able, in principle, to seek redress through formal or informal means. That practice was followed always or usually in 41 States and in exceptional cases in three States. The practice was mandatory in 38 States. In four other States it was mandatory in certain specified cases, while two States said that it was subject to the discretion of the Government, the executive or a political power. Seven States recognized that a discrepancy might exist between the Declaration and national rules and practices. In two States, namely Australia (Queensland) and Haiti, reforms were expected to be introduced in the future.

B. Duration of the procedures

11. The period necessary for a victim to obtain compensation or redress varied substantially among the responding States. Twenty-eight States indicated that redress occurred in less than one year; in 17 States the period was 1-6 months, while in 11 States it was 6-12 months. In 10 States, the average was 2-3 years. Two States, Ghana and Haiti, reported that redress for victims might take more than three years. Belgium noted that the process for seeking redress varied from 1 month to more than 36 months. Australia said that there were disparities in the laws and practices within its nine jurisdictions; in most of the jurisdictions the process lasted less than one year, while in Queensland, depending on the circumstances, the procedure took from 1 month to more than 36 months. Japan noted that it was impossible to give a uniform answer as redress included criminal, civil or administrative procedures and arbitration. Japan suggested that any future survey should also focus on those options.

C. Administrative and judicial costs

12. Most of the States indicated that the procedures that enabled victims to obtain redress ensured that they did not have to pay for the administrative or judicial procedures to obtain redress. Such procedures also guaranteed that victims were treated fairly and that they were involved in the criminal process initiated against the suspect. According to the replies received, the principle was always applied in 32 States, usually applied in 9 and applied on an exceptional basis in 1 State. It was mandatory practice for most of the responding States, and was applied in specified exceptions or in specified cases in a few States. In one State, it was subject to the discretion of the Court. Six States recognized that there were discrepancies between national legislation or practice and the provisions of the Declaration. In three States, namely, Argentina, Australia (Queensland) and Haiti, reforms were expected to be introduced in the future.

D. Information

13. According to paragraph 6 (a) of the Declaration, the responsiveness of judicial and administrative processes to the needs of victims should be facilitated by informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes were involved and where victims had requested such information.

14. Most of the States indicated that although procedures had been established to inform and provide information to victims but that they were not implemented or used in practice to a great extent. Twenty-seven States reported that the law guaranteed that victims were treated fairly, informed of their rights to seek redress and involved in the process to obtain redress.

15. More than one half of the respondents stated that victims were always, on a mandatory basis, informed of their rights in seeking redress. In 13 States, the principle was usually applied with some exceptions. In three States it was applied in exceptional cases, subject to the discretion of the judicial, executive or political power. Reforms were foreseen in four States. Information on the application of the principle was not available in four States.

16. Two thirds of the respondents reported that victims were informed of their possible role during a judicial or administrative process, especially where serious crimes were involved or when the victim requested such information. The practice was mandatory and generally applied in the majority of the States. It was applied in exceptional cases in two States. In six States there were specified exceptions. In three States the provision of proper information on the possible role of the victims in the proceedings was mandatory in certain specified cases. In five States the provision of such information was subject to the discretion of the Government, the executive or a political power. Six States noted discrepancies between national practice and the Declaration. In three States, namely, Australia (Queensland and Australian Capital Territory), Belgium and Oman, reforms were expected to be introduced. Information on the application of this principle was not available in six States. South Africa mentioned that the victim was informed by the presiding officer and the public prosecutor. In Germany, the Law for the Improvement of the Position of the Victim in Criminal Procedures (Victim Protection Act) allowed the victim to review the court files of the case and to receive legal counsel.

17. In two thirds of the responding States, victims were informed about the timing of the process, the schedule and the result of each judicial or administrative action, especially if serious crimes were involved or if the victim had requested such information. France reported that victims were informed of the timing when they had filed a complaint. In Germany the Victim Protection Act allowed the victim to receive information on the progress made in the case. Romania indicated that victims were informed in all cases. In a few States, the principle was applied in exceptional cases. It was mandatory in the majority of the States and mandatory in only certain specified cases in a few States. It was subject to the discretion of the governmental authorities in one States. In three States, namely, Australia (Queensland and Australian Capital Territory), Belgium and Oman, reforms were expected to be introduced.

18. Victims were always informed about the disposition of their cases in around two thirds of the responding States. That principle was usually applied in several States. In Australia victims were informed at their request or where a serious crime was involved. France reported that victims were informed of the result of the action when they had claimed their suffered damages in criminal proceedings. Belgium indicated that victims were informed about the disposal of their cases on an exceptional basis.

E. Victims' views and concerns

19. According to paragraph 6 (b) of the Declaration, judicial and administrative processes should allow the views and concerns of victims to be presented and considered at appropriate stages of the proceedings.

20. In 33 States, the judicial or administrative process always allowed the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests were affected. In seven other States the principle was usually applied. It was applied in exceptional cases in South Africa. In Belgium it was always applied in the first stage of the proceedings and in exceptional cases in the second stage.

21. More than 80 per cent of the responding States noted that the victims were able to present their concerns, either in person or through their legal counsel and the public prosecutors. Some States reported variations that might exist, depending on the circumstances and the seriousness of the case. For instance, the Netherlands mentioned that views and concerns of the victim were presented by the victim alone or the victim's legal counsel and the public prosecutor with due regard to the seriousness of the case. A few States reported that other persons might be allowed to present the concerns of the victim; such persons included officers of relevant agencies and the police in Australia, anyone connected with the case in Jordan and Myanmar, the victim's witnesses and relatives in Mauritius, and the guardian of minors in cases involving juveniles or the representative of social and professional associations in Haiti. In Canada, the Criminal Code permitted the court to consider, at the time of sentencing an offender, a "victim impact statement", describing the effects of the crime on the victim. Amendments to the Criminal Code were being considered by the Canadian parliament to ensure that, where a "victim impact statement" had been prepared, the court must consider it.

F. Protection of privacy

22. Sixty per cent of the responding States reported that measures were taken in order to always or usually protect the privacy of victims, as well as of their families and witnesses on their behalf, from intimidation and retaliation. In the majority of those States the practice was mandatory. It was followed in exceptional cases in a dozen States. One State reported that the practice was never followed. In six States, information on the implementation of the practice was not available. In Australia (Australian Capital Territory), following the introduction of television in courtrooms, the Evidence Act was amended to allow victims of crimes to testify by closed-circuit television located outside the courtroom. In Argentina, Australia (Queensland), Belgium, Haiti and Oman reforms were expected to be introduced.

G. Safety

23. More than one half of the responding States indicated that the judicial or administrative process endeavoured to ensure the safety of victims, as well as that of their families and witnesses, and to protect them from intimidation or retaliation. In those States, the practice generally was mandatory. It was exceptional in three States and never followed in three others. In Argentina, Australia (Queensland), Haiti and the Russian Federation reforms were expected to be introduced.

II. RESTITUTION

A. Fair restitution by the offenders

24. According to paragraph 8 of the Declaration, offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

25. All responding States indicated that offenders were bound by law to provide fair restitution to victims, their families or dependants in accordance with paragraph 8 of the Declaration. The practice was mandatory and generally followed in the majority of the States. Argentina further explained that the obligation to

provide restitution might only arise out of a judgement and that the filing of a civil suit by the victim was an essential prerequisite. Once the judgement was rendered, and unless the offender ordered to effect compensation was insolvent, the victim could obtain the redress sought, by the sale of the offender's property if necessary. France reported that victims of a criminal offence were always entitled to claim damages from the perpetrators of the offence in the full amount of the pecuniary and non-pecuniary harm suffered; they might also obtain compensation from the Security Fund (Fonds de Garantie), which was then entitled to proceed against the offenders. Restitution was exceptional in only two States, where it was left to the discretion of the judicial authorities. In a few States, the practice allowed some exceptions; for example, in Australia (Australian Capital Territory) financial reparation was not ordered if the offender was sentenced to imprisonment or was unable to pay.

26. For almost all the States, restitution included: the return of property (in 38 States); payment for harm or loss suffered (in 38 States); and the reimbursement of expenses incurred as a result of victimization (in 34 States). Sixteen States indicated that restitution also included the provision of services.

B. Restitution as a sentencing option in criminal cases

27. In two thirds of the responding States, restitution was an available sentencing option in criminal cases, in addition to other criminal sanctions, in accordance with paragraph 9 of the Declaration. In one half of the reporting States the practice was considered mandatory. In a few States, however, restitution was not used as a criminal sentence. Argentina reported that the option was available provided that a civil suit had been instituted within the criminal proceedings. A bill before the Argentine congress concerning non-custodial alternative penalties included as a penalty (which implied the possibility of imposition on a discretionary basis) the provision of restitution for the harm inflicted. Eight States noted discrepancies between the Declaration and domestic laws but did not expect reforms to be introduced in the future.

C. Restitution in cases of substantial harm to the environment

28. Under paragraph 10 of the Declaration, in cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of the community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

29. In a few States criminal codes had been amended to permit restitution for environmental damages. However, more than one half of the respondents (26 States) indicated that, in a case involving substantial harm to the environment, restitution could be ordered within a judicial or administrative process. In addition, 10 States reported that restitution might be ordered to a certain extent or in some specific situations. Five States indicated that the possibility did not exist or existed in exceptional cases.

30. Paragraph 10 of the Declaration was always or usually applied in 32 States. In 23 States the practice was mandatory. In a few States, it was mandatory with specified exceptions or mandatory in certain specified cases. In five States, the issue was subject to the discretion of the administrative or judicial authorities. Australia reported that restitution could be ordered after judgement (in Victoria) or under environmental acts that imposed penalties for breaches of environmental laws and regulations (in Western Australia). France reported that under criminal law, judges might order the offender to comply with statutory or regulatory provisions related to the environment. Argentina, Australia, Haiti, Myanmar and Oman indicated that they expected reforms to be introduced.

D. Restitution from the State

31. According to paragraph 11 of the Declaration, the victims should receive restitution from the State in cases where public officials have violated national criminal laws.

32. In all but four of the responding States that principle was respected. Fourteen respondents noted that victims received restitution from the State where the victimization was due to the fact that public officers had violated criminal laws. Fifteen respondents specified that restitution was due if the public officials acted in the course of their duty. Seven States replied that the provision was applied to a certain extent or in some specified situations.

33. Fourteen States indicated that victims also received restitution in situations where agents other than public officials, acting in an official or quasi-official capacity, had violated national criminal laws. Seventeen States noted that restitution was ordered if the agents acted in the course of their duty.

34. Less than 50 per cent of the respondents indicated that restitution was paid by the State whose officials or agents were responsible for the harm inflicted. Twenty-one States reported that the payment was made in all cases. In a dozen States, restitution was paid in some cases. Argentina reported that restitution was paid provided that the relevant civil suit had been filed; in some cases, solely as an exception, the State recognized its responsibility for certain acts and granted redress, on a discretionary basis, to persons who could provide proof of victimization. The Netherlands reported that the compensation of (im)material damage was mainly regulated by civil procedures; however, since April 1995, many claims of victims had been allowed to be treated under criminal law procedures. Three States noted that restitution was not paid in any such cases. In a dozen other States, no information on the subject was available.

III. COMPENSATION

35. According to paragraph 12 of the Declaration, when compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to victims who have sustained significant bodily injury and to the family, in particular dependants of persons who have died or become physically or mentally incapacitated.

A. Compensation from the State

36. About one half of responding States either did not reply to this part of the questionnaire or indicated that there was no information available on the subject. More than one third reported that the State provided financial compensation to victims who did not get compensation from the offender. Japan noted that there were several systems under which the State provided financial compensation. Argentina indicated that there was no compensation for victims of crimes if the State was not responsible, even indirectly, for their perpetration; it added that the level of economic development achieved made it difficult, if not impossible, to include such claims among the entitlement granted to victims of crime. Singapore and South Africa reported that the State did not provide any financial compensation to victims of crime.

B. Modalities

37. A dozen respondents indicated that compensation was provided irrespective of a final decision by a criminal court on the crime. In seven States, compensation was subject to a final decision by a criminal court on the crime.

38. In Cuba, Denmark, Finland, France, Mexico, Jordan, Romania and Sweden, the State's financial compensation was 100 per cent of the redress the victim could claim from the offender. In Australia and Canada it varied according to local legislation. In Australia (Northern Territory), France and Luxembourg, compensation was provided by the State in cases where the victim would be unable to work 30 days (10 days in the case of Australia (Northern Territory)) or in cases where the victim's physical or mental capability was reduced by 10 per cent. France reported that compensation paid to victims of serious bodily harm (temporary

unfitness for work for over one month), to those permanently unfit for work and to rape victims was not subject to a ceiling; it was determined by the Victims' Compensation Commission.

39. About one half of respondents indicated that the State might seek reimbursement from the offender for any expenses incurred through the provision of compensation to the victim.

40. More than one third of the respondents indicated that, when compensation was not fully available from the offender or other sources, the State provided financial compensation to the family.

C. State funds for compensation

41. Eighteen States, namely, Australia, Belgium, Canada, Cuba, Finland, France, Jordan, Luxembourg, Mexico, Netherlands, Oman, Peru, Philippines, Qatar, Republic of Korea, Romania, Spain and Sweden, reported that State funds for compensation to victims had been established, as recommended in paragraph 13 of the Declaration. In seven States, State funds were established for specific situations. Canada and Jordan noted that, because of a lack of funding, the aid provided was still unsatisfactory. Canada stated that most provinces had victim legislation that provided for the imposition of a victim surcharge for provincial offences, the revenue from which was used to fund victim programmes and services in the provinces. Many respondents provided additional information and copies of domestic legislation. In Australia (Queensland), Greece, Jordan and Haiti reforms were expected to be introduced.

IV. ASSISTANCE FOR THE VICTIMS

A. Assistance throughout the legal process

42. According to paragraph 6 (c) of the Declaration, the responsiveness of judicial and administrative processes to the needs of victims should be facilitated by providing proper assistance to victims throughout the legal process.

43. In almost all States proper assistance was provided to the victims always or usually in order to enable them to present their concerns throughout the legal process. Six States reported that assistance was exceptional, rarely provided by the governmental authorities, subject to specific conditions such as the introduction of legal proceedings, or limited to the first stage of the process. France stated that victims might receive from the State financial support for legal counsel, depending on the victim's monthly income. Victims in France might also obtain advice from a network of 150 victims' aid associations. The use of victims' aid associations as a mechanism for delivering services and providing assistance to victims was also reported by Australia, Belgium, Canada, China, Ghana, Luxembourg, New Zealand, Republic of Korea, Sweden and Vanuatu.

B. Other forms of assistance and victim services

44. According to paragraphs 14-17 of the Declaration: (a) victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means; (b) victims should be informed of the availability of health and social services and other relevant assistance; (c) attention should be given to victims who have special needs; and (d) police, justice, health, social service and other personnel should receive training to ensure proper and prompt aid.

45. In almost all responding States, victims received the necessary material assistance (in 23 States), medical assistance (in 33 States), psychological assistance (in 21 States) and social assistance (in 33 States). In more than two thirds of the States, such assistance was provided through governmental, voluntary and community-based means. In 12 States, it was also available through indigenous means.

46. Thirty-two States reported that health and social services were always available to victims. The practice was mandatory in the majority of the States. For instance, Australia noted that all victims of crime had access to emergency hospital treatment. France indicated that public and private health services were available to all sick persons even if they were not victims of a criminal offence. Victims' aid associations might act as intermediaries between the health services and victims for psychological or psychiatric treatment. A few States indicated that social services were provided, taking into account the needs and means of the victim.

47. Victims were generally informed of the availability of health, social services and other relevant assistance. In many States, the information was provided by the police, the administration and health and social services, or justice officials such as the office of public prosecutions. Some States also referred to community-based and victim support agencies, as well as to the media, private aid associations, crime victim relief funds and local offices for victim assistance.

48. Some respondents provided additional information. For example, Australia described the functions of the Victims of Crime Coordinator, established under the Victims of Crime Act of 1994, as aimed at encouraging the provision of efficient and effective services for victims, maintaining a register of seniors available to victims and ensuring, as far as practicable, that victims received the information and assistance that they needed in connection with their involvement in the administration of justice. France reported that the Ministry of Justice had encouraged the development of a network of 150 victims' aid associations operating at the courts or in difficult neighbourhoods. Within the Ministry of Justice, the Office for the Protection of Victims was responsible for distributing directives on the provision of assistance to victims.

49. Two thirds of the respondents reported that training was provided in order to sensitize police, justice, health and social services to the needs of victims. Some States referred to agencies that received special training in relation to offences against women. One third of the respondents noted that guidelines had been drafted and made available to the institutions involved in training.

V. VICTIMS OF ABUSE OF POWER

50. According to paragraph 19 of the Declaration, States should consider incorporating into the national law norms proscribing abuses of power and providing remedies, such as restitution, compensation, assistance and support, to victims of such abuses.

51. Almost all States indicated that remedies were provided for victims of abuse of power either by national law (in 32 States) or in general practice (in 6 States). Two thirds of the respondents reported that remedies were provided in all cases. While a few noted that information on the subject was not available, the practice was mandatory in the vast majority of the States that replied. Four States indicated that there were specified exceptions. In two States, the practice was subject to the discretion of the Government, the executive or a political power.

52. Two thirds of the respondents reported that remedies for victims of abuse of power included restitution and/or compensation. Necessary material and medical assistance and support were provided to such victims in almost all the States. Psychological assistance and support were provided in more than one third of the States. And social assistance and support were provided in more than one half of the States.

53. In Australia (Queensland), Oman and South Africa reforms were expected to be introduced in this area. South Africa noted that positive changes had occurred after the abolishment of apartheid.

54. Regarding compensation, Argentina indicated that, on an exceptional basis, the State recognized its responsibility for certain acts, such as the unlawful repression that had occurred in the country in the late 1970s, and granted redress, on a discretionary basis, to persons who could provide proof of victimization.

55. Chile submitted information on the work undertaken in the country since 1990 in respect of victims of abuse of power. Activities of the Commission for Truth and Reconciliation were presented, as well as those of the National Reparation and Reconciliation Board, created in 1992 to establish proof of crimes perpetrated and to grant compensation for victims, in particular children, spouses and parents of those who had disappeared. Compensation included compensation for emotional harm that had been inflicted. The forms of compensation included a compensatory pension payable for life, a single-sum compensatory allowance equivalent to 22 months' pension, and free health care and several benefits for children.

56. Haiti had established the Truth Commission to probe the crimes committed in that country from 1991 to 1994. A Committee of Lawyers had been designated to provide free legal assistance to the victims of crimes committed during the military coup. The question of establishing a permanent committee to assist victims was under discussion.

57. Turkey noted that, within the national law, victims of the crime of abuse of power were in a position to obtain redress from the public authorities. It submitted information on its national provisions, namely the Constitution and law 466, on compensation for persons arrested and detained illegally.

VI. TECHNICAL COOPERATION

58. Many States expressed interest in receiving technical assistance in terms of, *inter alia*, promulgation of national legislation, training, planning, exchange of experience, research and financial aid. Requests for assistance submitted by States can be summarized as follows:

Form of assistance requested	*Number of States*
Exchange of experience	25
Research	20
Financial aid	19
Training	18
Planning	15
Promulgation of national legislation	14

59. The responding developing countries and countries with economies in transition mainly expressed interest in financial aid, training and exchange of experience. Financial aid was requested as a matter of priority by Argentina, Colombia, Haiti, Jordan, Morocco, Myanmar, Philippines, Romania, Russian Federation, South Africa, Tonga and Vanuatu. Training was identified as a priority by Argentina, Colombia, Cyprus, Lebanon, Mauritius, Myanmar, Romania, South Africa and Tonga. Exchange of experience was seen as a priority by Argentina, Colombia, Cyprus, Ghana, Haiti, Lebanon, Myanmar and Romania. Considerable interest in research was expressed by Colombia, Ghana, Jordan, Philippines, Romania and South Africa. Promulgation of national legislation was requested as a matter of priority by Cyprus, Haiti, Mauritius and Tonga. Assistance in planning was requested as a priority by Ghana, Philippines, South Africa and Vanuatu.

60. Several developed countries, namely, Australia, Canada, France, Greece and the Netherlands, expressed interest in the exchange of experience, training and research. Canada also mentioned promulgation of national legislation.

61. Offers by States to provide assistance could be categorized as follows:

Form of assistance offered	*Number of States*
Exchange of experience	20
Training	13
Promulgation of national legislation	11
Research	9
Planning	7
Financial aid	6

62. Exchange of experience was mentioned by developed and developing countries. Training and/or promulgation of national legislation was proposed by Australia, Colombia, Cuba, Cyprus, France, Greece, Jordan, Lebanon, Myanmar, Netherlands, Oman, Philippines, South Africa, Spain, Sweden and Vanuatu. Planning was proposed by Australia, Colombia, Greece, Jordan, Oman, Philippines and South Africa. Financial aid was envisaged by six States.

VII. CONCLUSION

63. According to the replies received, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power appears to enjoy respect in most States. Many of the 44 responding States reported that steps had been taken to implement the main provisions of the Declaration. Initiatives to incorporate the Declaration into domestic law were reported by several States. New legislation benefiting victims had been introduced in many countries or was under consideration. For some States, the Declaration had served as a guideline for broader reforms that were under way.

64. The positive developments and legislative reforms were part of the overall movement towards recognizing the rights of victims, addressing their needs, offering assistance and providing restitution and compensation, including in cases related to abuse of power and in the field of the environment.

65. The information received suggests that differences in the judicial traditions, systems and practices of the responding States did not prevent an increased number of countries from including in their domestic legislation, substantial and procedural provisions designed to improve the position of victims in civil, criminal and administrative proceedings.

66. In some jurisdictions, victims were able to express their views and concerns to the court. In a certain number of States, victims were permitted to take an active role in the proceedings and were afforded the right to review court files, to receive information on the progress of the case and to have legal counsel. In some jurisdictions, special victim support persons, victim advocates or coordinators had been designated to help victims and witnesses during the process.

67. Furthermore, steps had been taken in many jurisdictions to facilitate the victim's access to relevant information. In many States, the police had the duty to inform the victim of the possibilities of legal advice,

of sources of practical assistance, and of ways to seek redress, with a view to obtaining restitution or compensation. In some States, other administrative services, victim support persons and non-governmental organizations were entitled to inform victims of their rights or specific issues.

68. While concern for victims was central in most criminal justice systems, less than one half of the reporting States had developed programmes or established funds to be used by the victims or by those working in the criminal justice systems to support the victims.

69. Nevertheless, the replies received demonstrated that the amount of attention given to the plight of victims has increased. In a number of States the services for victims have been expanded. Some States have established central bodies at the national level to develop a comprehensive approach and coordinate the activities of an increased number of associations involved in action to support victims.

70. A number of States referred to revised laws and new programmes to provide services for victims. Some States reported that they expected changes to be introduced in the near future to implement the provisions of the Declaration.

71. Almost all the respondents emphasized the importance of technical cooperation and expressed a great interest in research and other promotional and operational activities to be developed. Several States emphasized that it was difficult to submit reliable information and statistics on issues related to the use and application of the Declaration. Others noted discrepancies between national practices and some of the provisions of the Declaration.

VIII. ACTION REQUIRED OF THE COMMISSION

72. The Commission may wish to consider ways in which the United Nations crime prevention and criminal justice programme could continue to promote research and could assist, upon request, Member States in improving their national capacities to ensure justice for victims of crime and abuse of power, by providing technical assistance in the form of, *inter alia*, advisory services, training and assistance in the review or promulgation of national legislation.

73. Several States sent examples of legislation and programmes to illustrate their efforts to implement the Declaration. The Commission may wish to request the Secretary-General to consider means of promoting the exchange of experience in this field between interested Member States and of disseminating the information provided.

74. The attention of the Commission is drawn to the relevant proposals contained in the report of the Secretary-General on United Nations standards and norms in the field of crime prevention and criminal justice (E/CN.15/1996/16) and to those made by the Expert Group Meeting on Victims of Crime and Abuse of Power in the International Setting, held at Vienna in December 1995 (E/CN.15/1996/16/Add.5), for appropriate review and follow-up action.